

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

DEC 14 2017

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY M DEPUTY

Savortae Runnels,
et al.,
(Enter the full name of the plaintiff.)

v.

Case No. CIV-17-1336-D
(Court Clerk will insert case number)

- (1) Okla. County Commissioners,
(2) John Whetsel,
(3) P. D. Taylor, et al.,

July Trial Demand

(Enter the full name of each defendant. Attach additional sheets as necessary.)

PRO SE PRISONER CIVIL RIGHTS COMPLAINT

Initial Instructions

1. You must type or legibly handwrite the Complaint, and you must answer all questions concisely and in the proper space. Where more space is needed to answer any question, you may attach a separate sheet.
2. You must provide a full name for each defendant and describe where that defendant resides or can be located.
3. You must send the original complaint and one copy to the Clerk of the District Court.
4. You must pay an initial fee of \$400 (including a \$350 filing fee and a \$50 administrative fee). The complaint will not be considered filed until the Clerk receives the \$400 fee or you are granted permission to proceed *in forma pauperis*.
5. If you cannot prepay the \$400 fee, you may request permission to proceed *in forma pauperis* in accordance with the procedures set forth in the Court's form application to proceed *in forma pauperis*. See 28 U.S.C. § 1915; Local Civil Rule 3.3.

- If the court grants your request, the \$50 administrative fee will not be assessed and your total filing fee will be \$350.
- You will be required to make an initial partial payment, which the court will calculate, and then prison officials will deduct the remaining balance from your prison accounts over time.
- These deductions will be made until the entire \$350 filing fee is paid, regardless of how the court decides your case.

7. The Court will review your complaint before deciding whether to authorize service of process on the defendants. See 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1). If the Court grants such permission, the Clerk will send you the necessary instructions and forms.

8. If you have been granted permission to proceed *in forma pauperis*, the United States Marshals Service will be authorized to serve the defendants based on information you provide. If you have not been granted permission to proceed *in forma pauperis*, you will be responsible for service of a separate summons and copy of the complaint on each defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

COMPLAINT

I. Jurisdiction is asserted pursuant to:

☒ 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3) (NOTE: these provisions generally apply to state prisoners), or

☐ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and 28 U.S.C. § 1331 (NOTE: these provisions generally apply to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

II. State whether you are a:

☐ Convicted and sentenced state prisoner

☐ Convicted and sentenced federal prisoner

☒ Pretrial detainee

☐ Immigration detainee

☐ Civilly committed detainee

☐ Other (please explain) _____

III. Previous Federal Civil Actions or Appeals

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

1. Prior Civil Action/Appeal No. 1

a. Parties to previous lawsuit:

Plaintiff(s): None

Defendant(s): _____

b. Court and docket number: _____

c. Approximate date of filing: _____

d. Issues raised: _____

e. Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the case still pending? Did you appeal?): _____

f. Approximate date of disposition: _____

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a separate sheet(s).

IV. Parties to Current Lawsuit

State information about yourself and each person or company listed as a defendant in the caption (the heading) of this complaint.

1. Plaintiff

Name and any aliases: Savortae Runnels

Address: Oklahoma County Jail, 201 N. Shartel,

Inmate No.: Oklahoma City, OK 73102

2. Defendant No. 1

Name and official position: Oklahoma County Commissioners
Will Johnson and Brian Maughan

Place of employment and/or residence: County Office Building.

320 Robert S. Kerr, Ste 101, OKC, OK 73102

How is this person sued? () official capacity, () individual capacity, (X) both

3. Defendant No. 2

Name and official position: former Sheriff John Whetsel
Oklahoma County Sheriff,

Place of employment and/or residence: 201 N. Shartel

OKC, OK 73102

How is this person sued? () official capacity, () individual capacity, (X) both

If there are more than two defendants, describe the additional defendants using this same format on a separate sheet(s).

IV. Parties to Current Lawsuit

4. Defendant No. 3

Name and official position: P.D. Taylor Sheriff
Oklahoma County, 201 N. Shartel, OKC, OK 73102

He is sued in his ☐ Official Capacity
☐ individual capacity, ☒ Both

6. Do not include claims relating to your criminal conviction or to prison disciplinary proceedings that resulted in loss of good time credits.

- If a ruling in your favor "would necessarily imply the invalidity" of a criminal conviction or prison disciplinary punishment affecting the time served, then you cannot make these claims in a civil rights complaint unless you have already had the conviction or prison disciplinary proceeding invalidated, for example through a habeas proceeding.

Claims

List the federal right(s) that you believe have been violated, and describe what happened. Each alleged violation of a federal right should be listed separately as its own claim.

1. **Claim 1:**

(1) List the right that you believe was violated:

Prolonged exposure to Toxic Black mold
 "(mold)" in violation of the 8th and/or
 14th Amendments to the U.S. Constitution.

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Oklahoma County Commissioners, and
 John Whetsel, et al.

- (3) List the supporting facts:

see Continuation on Page 9, paragraph 4.

- (4) Relief requested: (State briefly exactly what you want the court to do for you.)

Compensatory and Punitive damages in an amount to be proven at trial, all medical bills relating to the mold, injunctive relief, emergency orders compelling the Defendants to transfer all prisoners to facility free of mold, Attorneys fees, a Class Certification, and any other relief the Court deems just.

2. Claim II:

- (1) List the right that you believe was violated:

Deprivation of hot water (cold showers only) from 05/18/17 until 09/26/17 in violation of the 8th and/or 14th Amendment to the U.S. Constitution.

- (2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Oklahoma County Commissioners,
P. D. Taylor, et al.

(3) List the supporting facts:

see Continuation on Page 11, Paragraph 11.

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

Compensatory and Punitive damages to be proven at the trial, injunctive relief emergency orders compelling defendants to provide hot water to inmate cells and showers, Attorneys Fees, a class certification, and any other relief the court may deem just.

If there are more than two claims that you wish to assert, describe the additional claims using this same format on a separate sheet(s).

VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.

X 

Plaintiff's signature

Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the ____ day of _____, 20__.

X 

Plaintiff's signature

Date

Continued From Page 7
Statement of Case

1. This action is filed to seek redress for the injury the Defendants willfully inflicted upon Plaintiff and all similarly situated inmates ("Plaintiffs"), with the specific intent to inflict arbitrary punishment upon all plaintiffs resulting from the Defendants callous indifference to Plaintiffs U.S. Constitutional rights causing Plaintiffs to sustain irreparable injury in the form physical injury, pain, suffering, discomfort, and the intentional infliction of emotional distress and mental anguish.
2. In each instance, or issue, the Defendants breached their obligations and was deliberately indifferent to all Plaintiffs causing the deprivation of rights under color of law and irreparable injury, as will be fully set forth herein.
3. The Defendants pursued a course of conduct knowing their conduct created a substantial risk of significant harm, and disregarded that risk causing irreparable injury to Plaintiffs entitling them to an award of punitive damages.

Claim 1, Supporting Facts

A. Toxic Black Mold "(mold)" Plaintiffs incorporate by reference paragraphs 1 through 3 above.

4. The Oklahoma County Detention Center's "(jail),"

Ventilation system, together with the vents inside inmate cells, and shower areas, are infested with mold, which causes health problems associated with mental impairment, breathing problems, damage to organs, and sometimes death.

5. Mycotoxins from the mold can be breathed in, ingested, or absorbed through a person's skin or eyes, which will eventually find its way into the person's blood, which leads to heart damage, and problems with blood clotting.

6. All Plaintiff's have been exposed to mycotoxins since their booking-in dates causing Plaintiffs to suffer effects of mental impairment, breathing problems, damage to internal organs, and others' death.

7. The jail has been infested with mold for many years, which occurred during Defendant Whetsel's watch, together with Oklahoma County Commissioners.

8. During all times relevant to the mold issue, Whetsel had a policy of not monitoring maintenance records to ensure that air-filters are replaced on a scheduled basis and maintain the jail free of mold.

Defendant Whetsel willfully failed to maintain the jail free of mold. He breached his obligations, and was deliberately indifferent to all Plaintiffs causing irreparable injury as described in paragraphs 1 through 3.

9. Defendant Oklahoma County Commissioners adopted Defendant Whetsel's policy and/or custom of disregarding the jail's maintenance records. The

Commissioners breached their obligations and were deliberately indifferent to all Plaintiffs causing irreparable injury to all Plaintiffs as described in paragraphs 1 through 3 above.

10. As a direct and proximate result of the Defendants deliberate indifference, as described above, all Plaintiffs suffered the deprivation of rights under color of law causing irreparable injury in the form of physical injury, pain, suffering, discomfort, and the intentional infliction of emotional distress and mental anguish.

Claim 2, Supporting Facts

continued From Page 8

B. No Hot Water. Plaintiff incorporates by reference paragraphs 1 through 10 above.

11. On May 18, 2017, with Defendant Taylor's authorization, the hot water to all inmates/Plaintiffs housing cells and showers was turned off. The hot water was restored on September 26, 2017.

12. The deprivation of hot water, like many cells not having working lights, restrictions on inmate diets, and the continuous confinement to their overcrowded cells, including being served cold food, is all designed to inflict arbitrary punishment upon Plaintiffs.

13. Plaintiff exhausted the jail's grievance procedure challenging the hot water, like the mold, which are not grievable issues.

14. During all times relevant to the hot water issue, Defendant Taylor's unwritten policy was to deprive all Plaintiffs of hot water. He willfully failed to provide Plaintiffs with hot water. He breached his obligations, and was deliberately indifferent to all Plaintiffs causing irreparable injury to all Plaintiffs as described in paragraphs 1 through 3 above.

15 Defendant Oklahoma County Commissioners adopted Taylor's unwritten policy of not providing Plaintiffs with hot water. The commissioners breached their obligations to provide hot water, and was deliberately indifferent to all Plaintiffs causing irreparable injury as described in paragraphs 1 through 3 above.

16. As a direct and proximate result of the Defendants deliberate indifference, all Plaintiffs suffered the deprivation of rights under color of law causing irreparable injury in the form of physical pain, discomfort, suffering, and the intentional infliction of emotional distress and mental anguish.